

## § 60.23

## 40 CFR Ch. I (7–1–04 Edition)

incorrect or no longer correct, he will publish notice of the determination in the FEDERAL REGISTER, revise the guideline document as necessary under paragraph (a) of this section, and propose and promulgate emission guidelines and compliance times under paragraph (c) of this section.

[40 FR 53346, Nov. 17, 1975, as amended at 54 FR 52189, Dec. 20, 1989]

### § 60.23 Adoption and submittal of State plans; public hearings.

(a)(1) Unless otherwise specified in the applicable subpart, within 9 months after notice of the availability of a final guideline document is published under § 60.22(a), each State shall adopt and submit to the Administrator, in accordance with § 60.4 of subpart A of this part, a plan for the control of the designated pollutant to which the guideline document applies.

(2) Within nine months after notice of the availability of a final revised guideline document is published as provided in § 60.22(d)(2), each State shall adopt and submit to the Administrator any plan revision necessary to meet the requirements of this subpart.

(b) If no designated facility is located within a State, the State shall submit a letter of certification to that effect to the Administrator within the time specified in paragraph (a) of this section. Such certification shall exempt the State from the requirements of this subpart for that designated pollutant.

(c)(1) Except as provided in paragraphs (c)(2) and (c)(3) of this section, the State shall, prior to the adoption of any plan or revision thereof, conduct one or more public hearings within the State on such plan or plan revision.

(2) No hearing shall be required for any change to an increment of progress in an approved compliance schedule unless the change is likely to cause the facility to be unable to comply with the final compliance date in the schedule.

(3) No hearing shall be required on an emission standard in effect prior to the effective date of this subpart if it was adopted after a public hearing and is at least as stringent as the corresponding emission guideline specified in the applicable guideline document published under § 60.22(a).

(d) Any hearing required by paragraph (c) of this section shall be held only after reasonable notice. Notice shall be given at least 30 days prior to the date of such hearing and shall include:

(1) Notification to the public by prominently advertising the date, time, and place of such hearing in each region affected;

(2) Availability, at the time of public announcement, of each proposed plan or revision thereof for public inspection in at least one location in each region to which it will apply;

(3) Notification to the Administrator;

(4) Notification to each local air pollution control agency in each region to which the plan or revision will apply; and

(5) In the case of an interstate region, notification to any other State included in the region.

(e) The State shall prepare and retain, for a minimum of 2 years, a record of each hearing for inspection by any interested party. The record shall contain, as a minimum, a list of witnesses together with the text of each presentation.

(f) The State shall submit with the plan or revision:

(1) Certification that each hearing required by paragraph (c) of this section was held in accordance with the notice required by paragraph (d) of this section; and

(2) A list of witnesses and their organizational affiliations, if any, appearing at the hearing and a brief written summary of each presentation or written submission.

(g) Upon written application by a State agency (through the appropriate Regional Office), the Administrator may approve State procedures designed to insure public participation in the matters for which hearings are required and public notification of the opportunity to participate if, in the judgment of the Administrator, the procedures, although different from the requirements of this subpart, in fact provide for adequate notice to and participation of the public. The Administrator may impose such conditions on his approval as he deems necessary. Procedures approved under this section

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shall be deemed to satisfy the requirements of this subpart regarding procedures for public hearings.

[40 FR 53346, Nov. 17, 1975, as amended at 60 FR 65414, Dec. 19, 1995]

### § 60.24 Emission standards and compliance schedules.

(a) Each plan shall include emission standards and compliance schedules.

(b)(1) Emission standards shall prescribe allowable rates of emissions except when it is clearly impracticable. Such cases will be identified in the guideline documents issued under § 60.22. Where emission standards prescribing equipment specifications are established, the plan shall, to the degree possible, set forth the emission reductions achievable by implementation of such specifications, and may permit compliance by the use of equipment determined by the State to be equivalent to that prescribed.

(2) Test methods and procedures for determining compliance with the emission standards shall be specified in the plan. Methods other than those specified in appendix A to this part may be specified in the plan if shown to be equivalent or alternative methods as defined in § 60.2 (t) and (u).

(3) Emission standards shall apply to all designated facilities within the State. A plan may contain emission standards adopted by local jurisdictions provided that the standards are enforceable by the State.

(c) Except as provided in paragraph (f) of this section, where the Administrator has determined that a designated pollutant may cause or contribute to endangerment of public health, emission standards shall be no less stringent than the corresponding emission guideline(s) specified in subpart C of this part, and final compliance shall be required as expeditiously as practicable but no later than the compliance times specified in subpart C of this part.

(d) Where the Administrator has determined that a designated pollutant may cause or contribute to endangerment of public welfare but that adverse effects on public health have not been demonstrated, States may balance the emission guidelines, compliance times, and other informa-

tion provided in the applicable guideline document against other factors of public concern in establishing emission standards, compliance schedules, and variances. Appropriate consideration shall be given to the factors specified in § 60.22(b) and to information presented at the public hearing(s) conducted under § 60.23(c).

(e)(1) Any compliance schedule extending more than 12 months from the date required for submittal of the plan must include legally enforceable increments of progress to achieve compliance for each designated facility or category of facilities. Unless otherwise specified in the applicable subpart, increments of progress must include, where practicable, each increment of progress specified in § 60.21(h) and must include such additional increments of progress as may be necessary to permit close and effective supervision of progress toward final compliance.

(2) A plan may provide that compliance schedules for individual sources or categories of sources will be formulated after plan submittal. Any such schedule shall be the subject of a public hearing held according to § 60.23 and shall be submitted to the Administrator within 60 days after the date of adoption of the schedule but in no case later than the date prescribed for submittal of the first semiannual report required by § 60.25(e).

(f) Unless otherwise specified in the applicable subpart on a case-by-case basis for particular designated facilities or classes of facilities, States may provide for the application of less stringent emissions standards or longer compliance schedules than those otherwise required by paragraph (c) of this section, provided that the State demonstrates with respect to each such facility (or class of facilities):

(1) Unreasonable cost of control resulting from plant age, location, or basic process design;

(2) Physical impossibility of installing necessary control equipment; or

(3) Other factors specific to the facility (or class of facilities) that make application of a less stringent standard or final compliance time significantly more reasonable.